

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

In re: ARC AIRBAGS INFLATORS
PRODUCTS LIABILITY LITIGATION

ALL CASES

Case No.: 1:22-md-03051-ELR

MDL No. 3051

Judge: Eleanor L. Ross

**PLAINTIFFS' NOTICE OF
SUPPLEMENTAL
AUTHORITY IN
OPPOSITION TO
DEFENDANTS' MOTIONS
TO DISMISS**

As further support for their oppositions to Defendants' pending motions to dismiss the Corrected Consolidated Class Action Complaint ("Complaint"), Plaintiffs respectfully submit Judge Thrash's recent decision in *Bolling v. Mercedes-Benz USA, LLC*, No. 1:23-CV-671-TWT, 2024 WL 3972987 (N.D. Ga. Aug. 27, 2024) (attached as Exhibit A).

Bolling ruled in the plaintiffs' favor on numerous issues relevant to the pending motions in this case, including:

- Whether Plaintiffs "have standing to assert claims regarding vehicle models and/or model years that are different from the ones the Plaintiffs

purchased.” *Bolling*, 2024 WL 3972987, at *4–5; *see also* Dkt. 221 (Pls.’ Opp’n to Automakers’ Mot. to Dismiss) at 4–6.

- Whether the Complaint is a “shotgun pleading.” *Bolling*, 2024 WL 3972987, at *6–7; *see also* Dkt. 220 (Pls.’ Opp’n to ARC Mot. to Dismiss) at 4–7.
- Whether Plaintiffs can assert equitable claims as an alternative basis for relief. *Bolling*, 2024 3972987, at *6; *see also* Dkt. 221 at 41–42.
- Whether Plaintiffs sufficiently plead express warranty claims. *Bolling*, 2024 3972987, at *9–10; *see also* Dkt. 221 at 11–12.
- Whether Plaintiffs sufficiently plead that the Automaker Defendants breached the implied warranty of merchantability. *Bolling*, 2024 3972987, at *12; *see also* Dkt. 221 at 19–20.
- Whether Georgia law can apply to nationwide fraudulent concealment claims. *Bolling*, 2024 WL 3972987, at *14; *see also* Dkt. 221 at 9.
- Whether Federal Rule of Civil Procedure 9(b)’s particularity requirement is relaxed where fraud claims are premised on omissions. *Bolling*, 2024 WL 3972987, at *14; *see also* Dkt. 221 at 29–31.
- Whether Defendants had a duty to disclose the Inflator Defect. *Bolling*, 2024 3972987, at *16; *see also* Dkt. 221 at 31–35.

- Whether Plaintiffs sufficiently plead justifiable reliance. *Bolling*, 2024 3972987, at *17; *see also* Dkt. 221 at 35–36.
- Whether the economic loss doctrine applies to Plaintiffs’ claims. *Bolling*, 2024 3972987, at *17; *see also* Dkt. 221 at 36–37.
- Whether Plaintiffs state cognizable claims under the Alabama Deceptive Trade Practices Act, the Georgia Fair Business Practices Act, the Georgia Uniform Deceptive Trade Practices Act, the Virginia Consumer Protection Act, and California’s Unfair Competition Law and Consumer Legal Remedies Act. *Bolling*, 2024 WL 3972987, at *18–22; *see also* Dkt. 221 at 37–45.

Accordingly, Judge Thrash’s recent, apposite rulings undermine Defendants’ challenges to Plaintiffs’ claims here.

Dated: October 24, 2024

Respectfully submitted,

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CERTIFICATE OF SERVICE

On October 24, 2024, I hereby certify that I have caused a true and correct copy of the foregoing to be filed with the Clerk of the Court using the CM/ECF system, which will send a notification of such filing to all counsel of record.

/s/ David Stellings
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